

Working After a Job Injury

After a job injury, returning to work safely and promptly can help in your recovery. It can also help you avoid financial losses from being off work.

This factsheet describes:

- How you can continue working with your employer.
- Vocational rehabilitation services to help you find a job, if you can't do your old job and your employer doesn't offer you other work.
- Steps you can take if you have questions or need help.
- More information (see back page).



Maintain Good Communication

After you are hurt on the job, many people work with you to decide when you will return to work and what work you will do. These people include:

- Your **treating doctor**
- Managers who represent your **employer**
- The **insurance claims administrator** who handles your claim for your employer.

To learn about which doctor can treat you for a job injury or how to file a claim, get the factsheet "After You Get Hurt on the Job" (listed on page 10).

Sometimes doctors and claims administrators do not fully understand your job or other jobs that could be assigned to you. Therefore, it is important

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that everyone stay in close touch throughout the process. You (and your attorney if you have one) should *actively* communicate with your treating doctor, your employer, and the claims administrator about:

- The work you did before you were injured.
- Your medical condition and the kinds of work you can do now.
- The kinds of work that your employer could make available to you.

Working While Recovering

Soon after your injury, the treating doctor examines you and sends a report to the claims administrator about your medical condition. If the treating doctor says you are able to work, he or she should describe:

- Clear and specific limits, if any, on your job tasks while recovering. These are called **work restrictions**. They are intended to protect you from further injury.

Example: No work that requires repetitive bending or stooping.

- Changes needed, if any, in your schedule, assignments, equipment, or other working conditions while recovering.

Example: Provide headset to avoid awkward positions of the head and neck.

If the treating doctor reports that you cannot work at all while recovering, you cannot be required to work.

TD and PD Benefits

If you lose wages while recovering, you may be eligible for **temporary disability (TD)** payments. To learn about these payments, get the factsheet “Temporary Disability Benefits” (listed on page 10).

If the treating doctor reports that you will never recover completely and will always be somewhat limited in your ability to do different kinds of jobs, you may be eligible for **permanent disability (PD)** payments. To learn about these payments, get the factsheet “Permanent Disability Benefits” (listed on page 10).

If You Can Work With Restrictions

If your treating doctor reports that you can return to work under specific work restrictions, any work that your employer assigns must meet these restrictions. Your employer might, for example, change certain tasks, reduce your time on certain tasks, or provide helpful equipment. Or, your employer may say that work like this is not available—if so, you cannot be required to work.

If You Can Work Without Restrictions

If your treating doctor reports that you can return to your job without restrictions, your employer usually must give you the same job and pay that you had before you were injured. The employer can require you to take the job. This could happen soon after the injury, or it could happen much later, after your condition has improved.

If You Can't Fully Recover

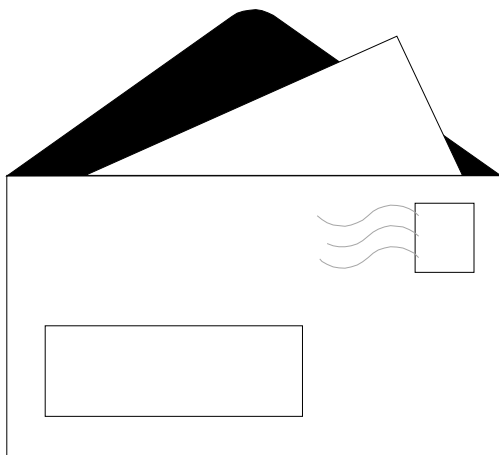
Your treating doctor may determine that you will never be able to return to the same job or working conditions that you had before you were injured.

The doctor should report this in writing. The report should include permanent **work restrictions** to protect you from further injury.

(In some cases, you and the claims administrator first fill out a "Description of Employee's Job Duties" on form RU-91. This form is required if you have been off work 90 days. The doctor then reviews what you wrote on the form to determine whether you will be able to go back to your old job and working conditions.)

Information from the Insurance Claims Administrator

If your treating doctor reports that you probably will never be able to return to the same job or working conditions that you had before you were injured, the claims administrator must send you:



- a. A letter stating that you may be eligible for vocational rehabilitation benefits. These benefits are described in the next section.
- b. A letter stating whether your employer is offering you work. Often this is the same letter as above. If you are offered work, the claims administrator must also send you an "Offer of Modified or Alternative Work" on a form called "RU-94."
- c. A state pamphlet called "Help in Returning to Work - '94."
- d. A copy of the doctor's report described above, with instructions on what to do if you disagree with the report.

If Your Employer Offers You Work

If the claims administrator's letter says that your employer is offering you work, the job must meet the **work restrictions** in the doctor's report.

The offer could involve:

1. **A modified job.** This is your old job with changes that meet the doctor's work restrictions. It must last at least 12 months and pay the same as your old job.

Examples: changing certain tasks, reducing time on certain tasks, changing the work station, and providing helpful equipment.

—or—

2. **Alternative work.** This is work that is different from your old job. It must last at least 12 months, and it must pay at least 85% of what you were paid at the time of injury.

Also, it must be within a reasonable commuting distance of where you lived at the time of the injury.

If your employer offers you a modified job or alternative work:

- You may have only 30 days to accept the offer. If you don't respond within 30 days, your employer could withdraw the offer.
- The claims administrator probably won't be required to give you vocational rehabilitation benefits. This is true *whether or not* you accept the offer.

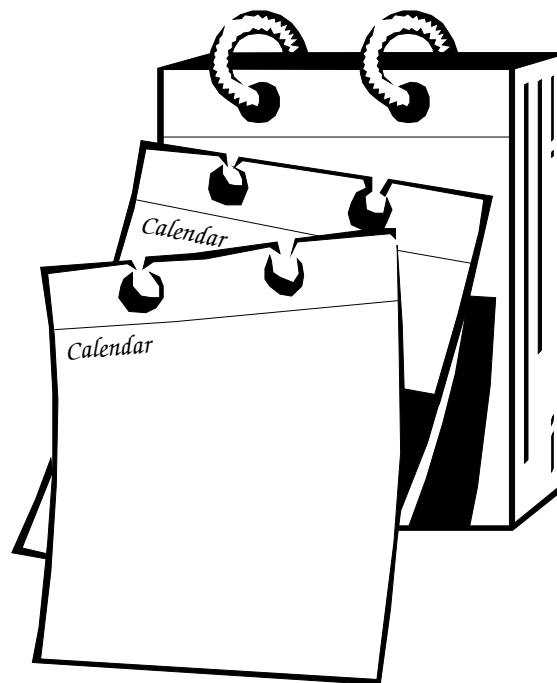
Your employer may offer work that will last at least 12 months but does not meet the other requirements of a modified job or alternative work. If this happens, and:

- If you *accept* the offer, you could *lose* your right to receive vocational rehabilitation benefits.
- If you want to preserve your right to these benefits, you should reply on form RU-94 that you cannot accept the offer and explain how the work does not meet the requirements.

Note: If you accept an offer of work that will end sooner than 12 months, you do *not* lose your right to vocational rehabilitation.

If Your Employer Doesn't Offer You Work

If the claims administrator's letter says that your employer is not offering you work, the letter must say whether the claims administrator is offering vocational rehabilitation benefits instead.



If you are offered these benefits, you may have only 90 days to reply in writing that you want them.

If you don't reply within 90 days, you could lose your right to receive vocational rehabilitation. (You have more time to reply if the claims administrator doesn't remind you in writing 45 to 70 days after the original letter.)

You can preserve your right to receive vocational rehabilitation if:

- You reply that you aren't sure you want vocational rehabilitation and would like an evaluation to help you decide.
- or—
- You reply that you want vocational rehabilitation but not right now, and you explain why you aren't ready.

Vocational Rehabilitation Benefits

Vocational rehabilitation benefits include:

- Services to help you find a job, if you are unable to do your old job and your employer doesn't offer you other work.
- A maintenance allowance to help with living expenses while receiving these services. This is described on page 6.

Receiving vocational rehabilitation services does not guarantee that you will find a job that pays the same as your old job.

Dollar Limits

Usually the claims administrator is only required to pay up to \$16,000 (total) for vocational rehabilitation benefits. This includes fees paid to a rehabilitation counselor and maintenance allowance payments while receiving vocational rehabilitation. These fees and payments are discussed below and on page 6.

Obtaining Vocational Rehabilitation

As discussed earlier, the claims administrator may *offer* you vocational rehabilitation.

You also can *request* it in some situations. For example, you can request vocational

rehabilitation if you weren't ready for the services earlier, but now you're ready. The deadline to request vocational rehabilitation depends on many factors.

To get help, see page 9.

Rehabilitation Counselor

If you accept an offer of vocational rehabilitation or your request for vocational rehabilitation is approved, the claims administrator will suggest a **rehabilitation counselor** to evaluate and counsel you. This person is also called a qualified rehabilitation representative, or **QRR**.

Fees paid to the counselor are part of the \$16,000 limit on your vocational rehabilitation benefits.

The claims administrator must get your agreement on the person who will be your rehabilitation counselor.

Once selected, this person meets with you to determine whether you will be able to participate in vocational rehabilitation.

Usually a worker is required to use the services of a rehabilitation counselor while in vocational rehabilitation. However, sometimes a worker enrolled in a college or university program is allowed to manage his or her vocational rehabilitation without a counselor.



To request permission to manage your own vocational rehabilitation, contact a state Division of Workers' Compensation **Rehabilitation Consultant**. Check the Government Pages at the front of the white pages of your phone book. Look under: State Government Offices/Industrial Relations/Workers' Compensation.

Vocational Rehabilitation Services

You and your rehabilitation counselor jointly prepare a written vocational rehabilitation plan.

The plan could include one of the following:

- A modified job or alternative work with your employer (even if your employer did not offer this earlier)
- Job placement with another employer
- On-the-job training
- Education or training in a school
- Self-employment.

After preparing the plan, you receive the services described in the plan. You may also receive job-placement counseling from the rehabilitation counselor.

Payments for Living Expenses

If you are receiving **temporary disability (TD)** payments, you should continue to receive them while participating in vocational rehabilitation. They continue for as long as you are eligible for TD.

To learn about TD payments, get the factsheet "Temporary Disability Benefits" (listed on page 10).

If you are not receiving TD payments, you may be eligible to receive:

- **Vocational rehabilitation maintenance allowance (VRMA)** payments. These can be up to \$246 per week, for up to 52 weeks. VRMA payments are part of the \$16,000 limit on your vocational rehabilitation benefits.
- **Permanent disability (PD)** payments in some situations.

To learn about permanent disability, get the factsheet "Permanent Disability Benefits" (listed on page 10).

If You Decline Vocational Rehabilitation

You may reject an offer of vocational rehabilitation benefits if you do not need the services.

However, if you later settle your case, you cannot receive cash in exchange for vocational rehabilitation benefits unless certain conditions are met. (A **settlement** is an agreement between you and the claims administrator about your workers' compensation claim.)

If you have questions, see page 9.

Questions & Answers

Q. *I disagree with my treating doctor's opinion about the work I can handle. What can I do?*

A. Sometimes different doctors have different opinions about a worker's ability to do tasks safely. You have a right to question or disagree with a report written by your treating doctor.

To dispute the report:

- If you do not have an attorney, you must send a letter to the claims administrator stating that you disagree with the report. You must send the letter within 30 days after you received the report. To get help, see page 9.
- If you have an attorney, contact your attorney right away. The deadline for stating your disagreement is 20 days.

Next, you can get a **medical evaluation** from another doctor.

For information about medical evaluations, call the state Industrial Medical Council at 1-800-794-6900. Ask for their written guides "Your Medical Evaluation" and "Getting Your Medical Evaluation."

Also check the California Department of Industrial Relations Web Site: **www.dir.ca.gov**.

For help in getting a medical evaluation, contact an Information & Assistance officer or an attorney (see page 9).

Q. *I don't agree with my employer about work assigned or offered to me. What can I do?*

A. If the employer assigns or offers you work that does not meet the



work restrictions required by your treating doctor, you don't have to accept it. To get help, see page 9.

In some cases, the work offered to you may meet the work restrictions but still seem unfair.

It is illegal for an employer to discriminate against you because you requested workers' compensation benefits or because you have a disability. This is prohibited by **California Labor Code section 132a**, the federal **Americans With Disabilities Act (ADA)**, and the California **Fair Employment and Housing Act (FEHA)**.

However, an employer is not always required to offer you a job or offer a job that you want. For example, there may not be any jobs that you can do *and* that meet the doctor's work restrictions. If you have questions or need help, see page 9.

Q. *I disagree with a decision that affects my vocational rehabilitation benefits. What can I do?*

A. You can contact your employer, the claims administrator, a state Information & Assistance officer, an attorney, or your union. See page 9.

You can also request help from a state Division of Workers' Compensation **Rehabilitation Consultant**.

Rehabilitation Consultants oversee vocational rehabilitation procedures, make decisions about vocational rehabilitation benefits, and help resolve disputes.

For instructions on getting help from a Rehabilitation Consultant, contact an Information & Assistance officer or an attorney (see page 9).



KEEP YOUR CLAIM ON TRACK

Some injured workers get their benefits quickly, with no trouble at all. Others face problems and delays. This page gives tips on how to take charge of your case and make sure your rights are protected.

Whether or not you have a problem:

- ◆ **Keep good records.** You will probably fill out and receive many forms and other papers. Keep copies of *everything*, including envelopes showing postmarks!
 - Keep notes of all discussions you have with the people involved in your claim.
 - Keep track of your medical condition and how it affects your ability to work.
 - Request in writing that the claims administrator give you copies of all medical reports and other documents.
 - Save pay stubs and time sheets showing your income, the dates you worked, and when you were off work.
 - Keep records of any out-of-pocket expenses that workers' compensation could cover (like prescriptions or travel costs to medical appointments).
- ◆ **Learn more about workers' compensation.** The laws and procedures in workers' compensation are complicated. What applies to another injured worker may not apply to you. Learn what your rights are, and don't be afraid to ask questions. To get the factsheet "For More Information," see page 8.

If you have a concern, speak up. See whether **your employer** or **the claims administrator** can agree to resolve the problem. If this doesn't work, don't delay getting help. Try the following:

- ◆ **Contact an Information & Assistance officer.** State I&A officers answer questions and help injured workers. They may provide information and forms and help resolve problems with your claim. They hold workshops around the state. To contact a local office, check the Government Pages at the front of the white pages of your phone book. Look under: State Government Offices/Industrial Relations/Workers' Compensation.
- ◆ **Consult an attorney.** Lawyers who specialize in helping injured workers with their workers' compensation claims are called **applicants' attorneys**. Their job is to plan a strategy for your case, gather information to support your claim, keep track of deadlines, and represent you in hearings before an **administrative law judge** of the **Workers' Compensation Appeals Board**. Most attorneys offer one free consultation. If you hire an attorney, the attorney's fee will be taken out of benefits that you receive later. A Referee must approve the fee. For names of applicants' attorneys, call the State Bar (☎ 1-415-241-2100), a local bar association, or the California Applicants' Attorneys Association (☎ 1-800-459-1400).
- ◆ **Contact your union.** Your union may be able to help resolve problems, tell you about other benefits, negotiate changes needed in your job, and protect you from job discrimination.
- ◆ **Represent yourself.** If you can't get help from the above resources, you can prepare your own case and request a hearing before a Referee. For instructions, contact an Information & Assistance officer (see above).

For more information, contact: *(distributor's name and phone)*

This is one of a series of factsheets, which include:

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■ **What Every Worker Should Know (#1)**

(workers' compensation benefits and choosing a doctor in case you are hurt on the job)

■ **After You Get Hurt on the Job (#2)**

(steps to take, getting appropriate medical care, working while recovering, other financial help, and facts about job discrimination)

■ **Temporary Disability Benefits (#3A)**

(payments while you are recovering from a job injury or illness)

■ **Permanent Disability Benefits (#3B)**

(medical reports, ratings, payments, and settlement)

■ **For More Information (#4)**

(written materials, places to seek help with your claim, and other types of assistance)

■ **Hurt on the Job? Information Alert for Teens**

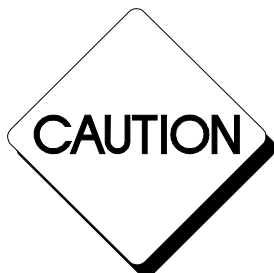
(Factsheet for Young Workers)

To obtain these factsheets, contact the state Division of Workers' Compensation. Call toll-free ☎ 1-800-736-7401, or check the Government Pages at the front of the white pages of your phone book and look up: State Government Offices/Industrial Relations/Workers' Compensation/Information & Assistance. To view the factsheets, go to the following Web site (many public libraries provide access to the Web): **www.dir.ca.gov**. Through this Web site, link to: Commission on Health and Safety and Workers' Compensation.

This factsheet was designed and produced by the Labor Occupational Health Program (LOHP), University of California at Berkeley, under contract with the Commission on Health and Safety and Workers' Compensation.

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The information in this factsheet is true in most situations. However, some **rules, exceptions, and deadlines** not covered here may apply to you and affect your case. To learn more, see the factsheet **For More Information**.

The information here describes the California workers' compensation system as of March 2000. It applies to most private, state, and local government employees whose "date of injury" is 1994 or later.